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The situation in Central America: procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development

United Nations Verification Mission in Guatemala

Report of the Secretary-General

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 54/99 of 8 December 1999, by which the Assembly authorized the renewal of the mandate of the United Nations Verification Mission in Guatemala (MINUGUA) originally set out in resolution 51/198 B of 27 March 1997, in order for the Mission to continue to verify compliance with the peace agreements signed between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG). By resolution 54/99, the General Assembly renewed the mandate of the Mission from 1 January to 31 December 2000 and requested me to submit recommendations with regard to the peace process after that date.

2. On 31 July, I informed the President of the General Assembly (A/54/950) that I had appointed Mr. Gerd D. Merrem as my Special Representative and Head of MINUGUA, effective 1 August 2000. Mr. Merrem succeeds Mr. Jean Arnault, who was appointed as my Special Representative for Burundi.

II. Background

3. March 2000 marks the tenth anniversary of the direct involvement of the United Nations in the Guatemalan peace process, which began with the appointment of a Representative of the Secretary-General as observer of the activities to be carried out under the Basic Agreement for the Search for Peace by Political Means, signed in Oslo on 29 March 1990 (A/45/706-S/21931, annex III).

4. This involvement was in response to the expressed wishes of the parties and to the commitment of the international community to the Central American peace process initiated under the Esquipulas II Agreement (A/42/521-S/19085, annex). The signing of the Agreement on a Firm and Lasting Peace (A/51/796-S/1997/114, annex II) in December 1996 placed Guatemala on a path of progress towards inclusive democracy, equitable development and respect for human rights and cultural diversity. The peace agreements provided the framework for the peace-building process in Guatemala, within which MINUGUA received a mandate aimed at supporting this process.

5. The 1996 agreements signed by the Government of Guatemala and URNG contained an overarching set

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of detailed commitments on political, legislative, social, economic, agrarian, military, public security, indigenous and human rights issues, which were consolidated into a comprehensive peace agenda.

6. The Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements (A/51/796-S/1997/114, annex I) stressed that international verification was essential to the implementation process and to strengthening public confidence in the consolidation of peace. MINUGUA, which until then had been limited to verifying the Comprehensive Agreement on Human Rights (A/48/928-S/1994/448, annex I) and the human rights aspects of the Agreement on Identity and Rights of Indigenous Peoples (A/49/882-S/1995/256, annex), was therefore requested by the parties to further expand its functions to verify all the signed agreements. They also asked that the Mission's functions comprise good offices, advisory and support services and public information. Furthermore, the parties requested that the duration of the mandate of MINUGUA be concurrent with the implementation timetable, namely, four years, or until 31 December 2000.

7. The Timetable agreement had envisaged a calendar for implementation which consisted of three consecutive phases covering the period from 1997 to 2000: (a) the demobilization of URNG members and the establishment of commissions for the reform of the justice and electoral systems, as well as the promotion of indigenous rights and the modernization of the legislative branch; (b) social and productive investment, modernization and decentralization of the State, public administration reform, rural development, fiscal reform and the restructuring of public security and national defence; and (c) further developments in the implementation and promotion of broad administrative and legislative reform.

8. The four years foreseen by the parties for completion of the implementation started in 1996 with the signing of the Agreement on a Firm and Lasting Peace. Beginning in 1998, but more pronounced in 1999, the Mission witnessed a deceleration of the implementation process. It is encouraging that President Alfonso Portillo, when taking the oath of office in January 2000, stated that the agreements represented a "State agreement" and that his Government was committed to reinvigorating the peace process with social policies and the agreements as their central pillar. In February 2000, during his visit to Guatemala to meet with the new authorities, the Under-Secretary-General for Political Affairs, Mr. Kieran Prendergast, noted with satisfaction that there was broad support in the new Government to continue and expand implementation of the pending commitments of the peace agenda.

III. Furthering the consolidation of the peace-building process in Guatemala

9. Owing to the relevance and extent of the outstanding agenda, the parties have requested the United Nations to continue to support the consolidation of the peace process until 2003. There is a considerable number of commitments that remain to be fully accomplished in this third phase (1998-2000), which will necessitate monitoring the further implementation of the agreements, with a special focus on socio-economic issues, rural development, strengthening of civilian power and various forums for increased citizen participation. The implementation of the agreements is to be based on a revised calendar currently under consideration by the Commission to Follow up the Implementation of the Peace Agreements (Follow-Up Commission). A final date for completion of this exercise is not yet available, but the Follow-Up Commission is expected to reschedule pending commitments and establish timelines for items that were not initially included in the agreement.

10. For the next phase, the Follow-Up Commission has identified the following priority issues: (a) human rights and national reconciliation; (b) civil-military relations and military reform; (c) reform of the judicial system; (d) indigenous people and inter-cultural relations; and (e) rural and social development policies.

11. In order to endorse this official request to the United Nations, the parties, in a joint Government-URNG delegation, carried out extensive consultations with the Group of Friends of the Guatemala peace process (Colombia, Mexico, Norway, Spain, United States of America and Venezuela) and the United Nations Secretariat. There is agreement that the next phase of implementation should address the root causes of the armed conflict, such as discriminatory social policies, the exclusion of the indigenous population and stark economic inequalities.

12. Wide consensus exists on the need to continue supporting and consolidating the progress already achieved under the peace agreements. In this regard, the Mission has been requested to continue its activities in 2001 and 2002, albeit on a reduced scale, with a further scaling down of its operations in a concluding phase in 2003, which is an electoral year.

13. This three-year period will lay the groundwork for strengthening coordination within the United Nations system and with other partners of the international community, since they need to fully integrate the peace agenda into their activities. Indeed, this process began with the incorporation of this perspective into the United Nations Development Assistance Framework, and will continue with efforts to define mechanisms for inter-agency cooperation, which will incorporate the peace agenda as its overarching framework.

14. The recommendations contained in the present report are focused on 2001, as the calendar for implementation through 2003 has yet to be finalized by the Follow-Up Commission. Similarly, although discussions with United Nations agencies and programmes have taken place both at Headquarters and in the field, the establishment of operational arrangements for cooperation will be developed in greater detail and finalized during the coming months.

IV. Status of implementation

15. In my fourth and fifth verification reports (A/54/526 and A/55/175, respectively), I referred to the challenge of continuing the peace process, from the standpoints of consolidating the achievements to date and completing the outstanding agenda. Progress in the implementation of the peace process has been uneven and significant components of the peace agenda are yet to be undertaken. In that context, progress is evident in the growing strength of the political system, in the full reintegration of URNG to political life and in the institutional reforms initiated in several areas, including the creation of the new civilian police and the increase in social spending.

16. However, important aspects of the peace agenda still remain unfulfilled and, therefore, require the continued engagement of the international community with Guatemala. This unfulfilled agenda includes, among other issues, fiscal reform, the reform of the electoral system and the armed forces, as well as specific aspects related to public security. In addition, the labour situation, the indigenous situation, the housing situation, the sustainable reintegration of uprooted and demobilized population and the problems of compensation and national reconciliation remain outstanding. The failure to tackle them effectively would continue to have a serious impact on the implementation of the peace process.

17. In resolution 54/99, the General Assembly considered my report of 10 March 1999 (A/54/853) and called upon the Government to redouble its efforts in the promotion of human rights in view of the persistence of important shortcomings registered in the implementation of the Comprehensive Agreement on Human Rights. The resolution also took into account the report of the Commission for Historical Clarification of February 1999 (A/53/928, annex) and called upon the Government to follow its recommendations with a view to promoting national reconciliation. The Assembly underscored that meeting the tax revenue targets was essential for the implementation of the peace agreements and encouraged the parties and sectors of Guatemalan society to continue efforts to achieve the goals of the peace agreements. The Assembly invited the international community and, in particular, the agencies, programmes and funds of the United Nations, to continue to take the implementation of the peace agreements as the framework for their technical and financial assistance programmes and projects.

18. For the first time since the signing of the peace agreement, Guatemala carried out general elections in November-December 1999 with participation of the URNG as a political party. The electoral process involved the entire political spectrum and was an important benchmark in establishing a broad democratic system in Guatemala. The peaceful transfer of power signalled significant progress towards democracy and the creation of an inclusive political system.

19. As part of the human rights verification mandate of MINUGUA, the Mission observed the exercise of political rights during the electoral period and noted significant improvements in the administration of the election and a moderate increase in citizen participation. The Mission did, however, highlight the central importance of needed amendments to the Law on Elections and Political Parties which is a

requirement of the peace agreements and necessary for the full exercise of political rights in Guatemala. In his inauguration speech on 14 January, the newly elected President, Alfonso Portillo, of the Frente Republicano Guatemalteco (FRG) stated that his administration would further strengthen democracy and national reconciliation and confirmed that the protection and promotion of human rights would take centre stage.

20. MINUGUA has continued to submit periodic reports on compliance with the Comprehensive Agreement on Human Rights. On 21 December 1999, I transmitted to the General Assembly the tenth report of MINUGUA on human rights (A/54/688, annex), which covered the period from 1 January to 30 November 1999. The Mission also prepared and issued in Guatemala three appendices to the report focused on specific human rights cases (including the as yet unresolved Gerardi case), trends in human rights violations, such as mob lynchings of presumed criminals, as well as a statistical breakdown by types of violations and their perpetrators, and on the functioning of the judicial system. The eleventh report of MINUGUA on human rights, covering the period from 1 December 1999 to 30 June 2000 (A/55/174, annex), was transmitted to the General Assembly on 26 July 2000.

21. The high priority given by the present Government to national and international human rights obligations is commendable. Since taking office, the Portillo Government has recognized the State's responsibility in 52 cases before the Inter-American Commission of Human Rights. The State has also agreed to explore their friendly settlement in compliance with the American Convention on Human Rights (Pact of San José). Also, in an unprecedented and welcome move on 9 August, the Government signed a settlement by which it not only recognized its responsibility in 10 grave human rights violation cases, but also agreed to provide individual reparations. The Presidential Commissioner for Human Rights has also declared the State's willingness to sign international human rights treaties.

22. These positive developments notwithstanding, a qualitative deterioration of the human rights situation appears to be under way: whereas individual complaints have declined significantly, human rights workers, journalists and judicial officials assigned to cases of past violations currently in the Guatemalan court system are subject to intimidation, harassment and threats directly related to their work. The Mission's verification points to the National Civil Police as the main perpetrator in serious cases of extrajudicial executions, torture and as participants in "social cleansing" campaigns.

23. MINUGUA also noted that, in view of the perceived weakness of the civilian public security apparatus, measures such as joint military-civil patrols are not conducive to the demilitarization of society, as stipulated under the signed agreements. They delay fundamental changes in the role of the army and fail to strengthen civilian institutions. While the Government has declared its intention to dismantle the Presidential Military Staff and reform the Secretariat for Strategic Analysis, it has not done so to date. In addition, the pattern of impunity continues to persist, while shortcomings in the Judiciary lead to a significant number of violations of due process. Parallel investigations by other government institutions at times hinder investigations.

24. During the past year, MINUGUA has monitored the implementation of the 84 recommendations of the Clarification Commission handed over to my Special Representative on 25 February 1999. In the light of this, the current Congress declared 25 February "Victims of Violence Day". One of the Commission's central recommendations was to establish a special entity entitled the Commission for Peace and Harmony, composed of civil society groups and government bodies. That Commission was to follow up on other recommendations of the report and to pursue avenues towards national reconciliation, including additional exhumations of mass graves and the search for the disappeared, including children. To date, Congress has not approved a bill establishing the Commission for Peace and Harmony.

25. A detailed analysis of progress made in the implementation of the entire body of the peace agreements since the adoption of resolution 54/99 was presented in my fourth verification report to the General Assembly (A/54/526), covering the period between 1 August 1998 and 31 October 1999. The Mission highlighted the need for electoral, fiscal, judicial and military reform and the need to pay special attention to commitments in the areas of labour, housing, sustainable integration and resettlement of the uprooted and demobilized population.

26. With regard to education and health issues, MINUGUA called for increased spending and improved services in areas with the most pressing problems, while taking into account the multicultural, multilingual and multi-ethnic character of the country's population. It also encouraged concerted efforts to increase opportunities for participation at different levels and in mobilizing greater resources for democratization and social development. The fourth verification report also contained two supplements, one detailing the state of implementation of each commitment and a second covering specifically the socio-economic aspects of the agreements.

27. One of the most significant accomplishments registered was in the fiscal policy area, and as such, was reported in my fifth verification report (A/55/175) covering the period from 1 November 1999 to 30 June 2000. I welcomed the finalization of the Fiscal Pact for a Future with Peace and Development which establishes an important basis for beginning efforts to raise tax-to-gross domestic product ratio to 12 per cent (from the current 9 per cent) by 2002, in order to allow the State to increase public spending on the peace agenda. The Fiscal Pact process successfully involved all sectors of society, including private business, political parties, government and civil society groups. Currently, negotiations are under way to change levels of taxation and I am optimistic that the parties involved will reach agreements that will help to fund essential aspects of the peace agenda.

28. The establishment by decree of the Women's Secretariat also represents a positive development which demonstrates Guatemala's commitment to strengthen national mechanisms for the advancement of women. As to the armed forces, there has been important redeployment in accordance with the agreements, but the elaboration of a new military doctrine with the participation of civil society groups is pending. There has been increased attention to public security matters which highlight the need for further judicial reform to combat impunity, reinforcement of operational capacities and training of the National Civil Police, as well as the design of an integral security policy, including the Security Advisory Council. Similarly, policies and laws that encourage the peaceful resolution of labour conflicts within the framework of international norms and standards, and that protect collective bargaining opportunities, are needed.

29. I reiterate the importance of fully implementing the Agreement on the Identity and Rights of Indigenous Peoples as a central pillar for achieving lasting peace in Guatemala. The historic discrimination and exploitation of the indigenous population has adversely affected the exercise of their political rights, thus undermining their participation in the democratic endeavour of consolidating the peace-building process. The construction of national unity, based on the multicultural, multi-ethnic and multilingual character of the country, is essential. The results of the national referendum held in May 1999 affected those provisions of the Indigenous Agreement that require amending the Constitution. It is therefore important to undertake additional efforts to approve legislation conducive to further progress in the implementation of indigenous rights.

30. As part of its public information mandate, and in order to disseminate the findings gathered during the course of its verification work, MINUGUA has issued three thematic reports and two book-length studies on the functioning of the judicial system in Guatemala. The first report, released in April 2000, focused on the penitentiary system and contained recommendations in line with international standards. The second report, issued in June 2000, was devoted to labour issues, and the third report, released in May 2000, covered land issues. The two book-length reports, entitled "Judicial decisions in Guatemala: an analysis of sentences issued by the courts" and "The functioning of the judicial system in Guatemala: an analysis of institutional patterns", respectively, were both released in June 2000.

V. Structure and staffing of the Mission

31. In my report of 13 September 1999 (A/54/355), I informed the General Assembly about the way in which the changes authorized in resolution 53/93 of 7 December 1998 had strengthened the Mission's ability to carry out its complex mandate. On that basis, the proposed changes foresaw modest variations in the regional structure of the Mission in 2000, featuring a more flexible distribution of resources without altering its geographical deployment.

32. For the 2001-2003 period, I propose to scale down the operation, starting with an important

reduction in staffing (international and national), which will ensure substantive savings in 2001. The achievements already registered in the implementation of the peace process, which have resulted in substantial reductions in individual complaints, form the basis for an important restructuring of personnel. Regional offices and suboffices will be redeployed without sacrificing geographical coverage, to ensure the continuing presence of MINUGUA, mainly in conflict-prone areas. In order to ensure a steady transition through this three-year period towards a nationally driven process, the Mission's functions are being refocused with the aim of strengthening national actors, both governmental and non-governmental, as they are essential to carry through the various initiatives that are currently under way but which fall short of the spirit and letter of the peace agreements. With its reconfigured structure, the Mission will continue to assist the parties in providing good offices, verification, assistance in specific fields and public information.

33. In 2001, the Mission will reconfigure its field presence. The regional offices of Coban, Guatemala City, Petén, Quetzaltenango, Quiché and Zacapa will remain unchanged. The regional offices of Huehuetenango and Sololá will be converted into suboffices, under the coordination of the Quetzaltenango Office, adding to the already existing two suboffices in Cantabal and Nebaj. The suboffices in Barillas and Poptún will become mobile offices and the San Marcos suboffice will be closed. Three mobile offices will continue to operate in Coatepeque, Escuintla and Mazatenango. In short, the Mission will have a total of six regional offices (reduced from eight), four suboffices (reduced from five), and five mobile offices (increased from three).

34. In view of the restructuring, the number of political affairs officers and United Nations Volunteers will be reduced by approximately 45 per cent. Given the nature of advances since the signing of the agreements and the nature of the remaining peace agenda, an 80 per cent reduction of military and police observers is foreseen. Corresponding reductions of 40 per cent in international and national administrative support staff are also envisaged. This will result in an overall 45 per cent decrease in Mission staff, both at headquarters and in the regional offices.

35. The structure of the Mission's headquarters will continue to consist of four substantive areas, namely: (a) Human Rights; (b) Juridical Affairs; (c) Socio-economic Affairs, Resettlement and Incorporation; and (d) Public Security and Military Affairs. In addition, special units focusing on cross-cutting themes, such as participation, indigenous affairs, women's issues and decentralization, will allow input in each thematic section. The Public Information Office will remain unchanged. The offices of the Military and Police Advisors will merge under Public Security and Military Affairs. One police observer will be assigned to each regional office and the remainder will be based at headquarters.

36. With a view to enhancing cooperation within the United Nations system, both in terms of strategic guidance and operational arrangements in a peace-building context, MINUGUA will begin a gradual transfer of projects, funded by an existing trust fund for peace in Guatemala, to relevant United Nations agencies. The Mission will, however, continue to guide core projects to ensure their timely implementation and coherence with the overall MINUGUA strategy and the priorities established by the Follow-Up Commission. The Mission will provide, with the parties' consent and advice, specific technical support to other entities (non-governmental organizations and State structures) involved in the implementation of the peace agreements, in order to strengthen national capacities.

37. In this context, the priority areas are the following:

(a) *Human rights and justice.* The Human Rights and Juridical Affairs sections will verify human rights in priority areas as defined by the parties in the Comprehensive Agreement on Human Rights, in order to inform the Secretary-General and recommend improvements, as appropriate. They will also focus on working together with the Office of the Human Rights Council and judicial organs to strengthen key institutions and to pave the way for the Mission's eventual drawdown during 2003. The Mission will verify application of due process and offer assistance in the modernization, reform and strengthening of the judicial system through mechanisms established under the peace agreements.

(b) *Socio-economic affairs, resettlement and incorporation.* The corresponding section will verify the Agreement on Social and Economic Aspects and the Agrarian Situation, the Agreement on the Basis for the Legal Integration of the URNG and the Agreement

on Resettlement of the Population Groups Uprooted by the Armed Conflict. At the request of the parties, it will offer expertise and assistance for the formulation of a national consensus and programmes on housing, education, rural development and labour issues. It will also verify the Fiscal Pact and the Political Agreement signed between the business sector and the social organizations.

(c) *Public security and military affairs*. The Guatemalan armed forces are currently undergoing a process of transformation with regard to their functions and deployment. A new doctrine is expected to bring it in line with the peace agreements. The section will verify relevant issues that are part of the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society. With relation to public security, the section will verify reorganization, operational modalities and capacity, as well as the deployment of the National Civil Police, and provide technical expertise. The Government has reaffirmed its intent to dismantle the intelligence structures in accordance with the agreements signed. The section will verify this process and provide expertise in the formulation of laws and regulations for these institutions.

38. In addition, specialized units will work on the cross-cutting themes of women's issues and indigenous affairs, as part of the Agreement on Identity and Rights of Indigenous Peoples.

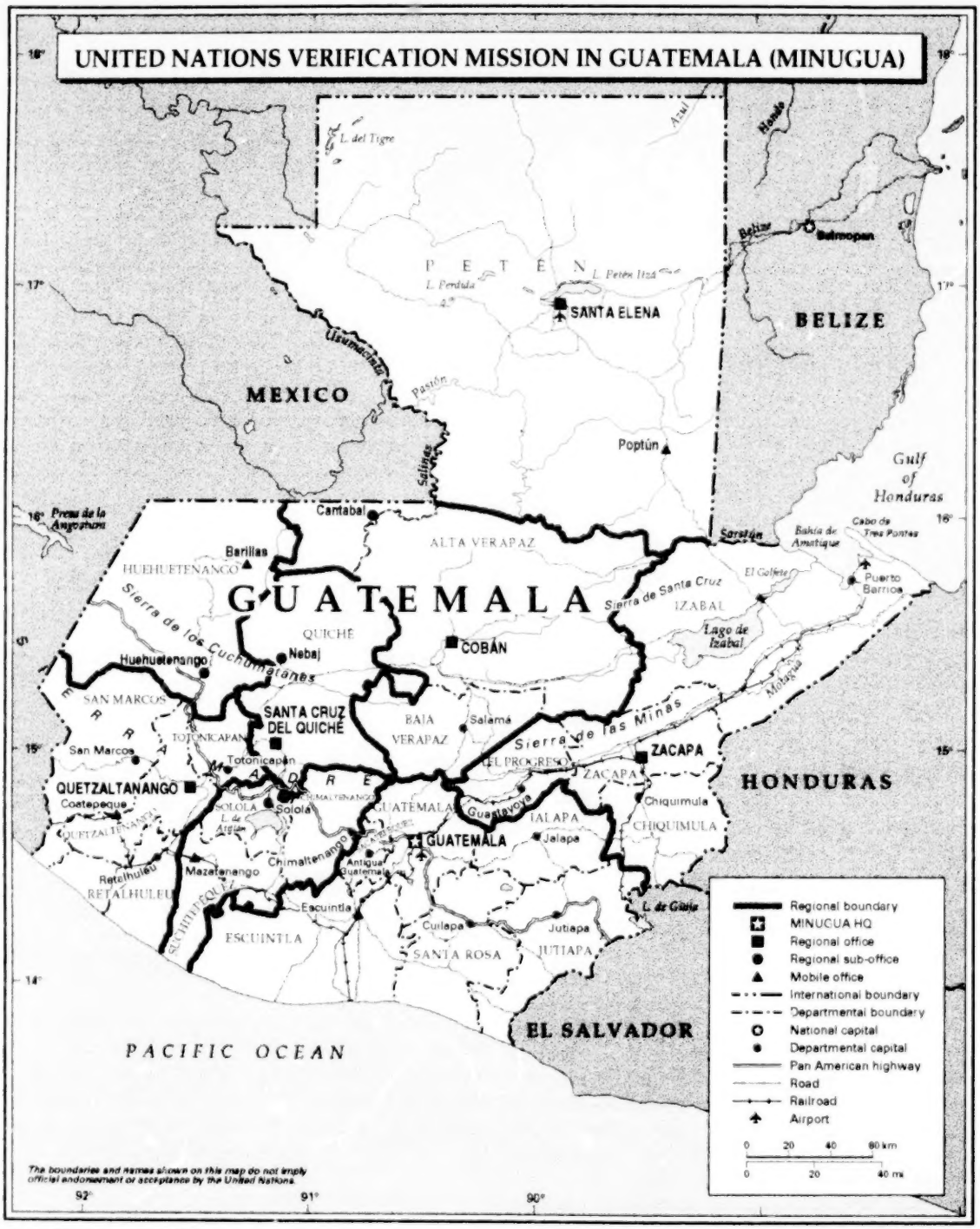
VI. Observations

39. Guatemala is facing an important test of its determination to fulfil the peace agenda. The holding of the first general elections following the signing of the Agreement on a Firm and Lasting Peace, with the participation of the entire political spectrum, marked a new stage in the peace process. In this context, it is necessary to consolidate what has already been achieved and to move ahead on the implementation of the broad outstanding agenda. The United Nations remains fully committed to the completion of a process initiated ten years ago, well before the peace agreements were signed. The United Nations system as a whole has played an important constructive role in support of the implementation of those agreements. Full compliance with the peace agreements represents the best tool for preventing jeopardizing the key achievements of the last four years. In this regard, I wish to call upon the Guatemalan authorities, the political parties and the various trade unions, indigenous, women's, business, peasants', academic, human rights and other organizations of civil society to redouble their efforts for the building of a culture of dialogue and the consolidation of peace in Guatemala.

40. In view of the failure of the parties to complete the implementation agenda by 31 December 2000, the implementation calendar is being readjusted by the Follow-Up Commission. I am hopeful that the new timetable will be realistic and strictly adhered to. I should like to note that the delays in implementation have revealed that, by tackling the root causes of the conflict, the peace agenda established the foundations for the qualitative transformation of Guatemalan society towards democratization. It has become equally clear that the implementation process faces complexities that were not anticipated by the parties to the agreements; it is a challenging process for the society as a whole.

41. I am encouraged by the strong commitment that the newly elected Government of Guatemala and URNG have shown to fully implementing the peace agenda, by placing it at the forefront of their political agenda until 2003. The upcoming period is critical for achieving the in-depth institutional and legislative reforms associated with implementation of that agenda. Both parties consider the contribution of MINUGUA, through an extended though reduced presence until 2003, essential for completing the multifaceted exercise of peace-building initiated four years ago. In this endeavour, MINUGUA will continue to liaise with the international community and the United Nations system. This will establish a solid base for the United Nations agencies and programmes to focus on the centrality of the peace agreements after the conclusion of the mandate of MINUGUA. This trend will increase as modalities and mechanisms for closer cooperation are progressively defined for the upcoming period up to and including 2003.

42. Based on the considerations outlined in the preceding paragraphs, I recommend that the General Assembly authorize the renewal of the mandate of MINUGUA from 1 January until 31 December 2001, subject to regular reports on progress in the implementation of the commitments contained in the peace agreements, and that the Mission be provided with the necessary resources.



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